

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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:  
DUNKIN' DONUTS FRANCHISED :  
RESTAURANTS, LLC, :  
DD IP HOLDER LLC, :  
BASKIN-ROBBINS FRANCHISED SHOPS LLC, :  
BR IP HOLDER LLC, :  
:  
Plaintiffs, : Case No. 07-CV-3612 (LMM)  
:  
v. :  
:  
KNZ 110<sup>th</sup> LEXINGTON, LLC, :  
KNZ 161 BROADWAY DONUT, LLC, :  
KNZ 149 BROADWAY DONUT, LLC :  
:  
Defendants. :  
:  
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**CERTIFICATION OF RONALD D. DEGEN PURSUANT TO LOCAL RULE 6.1(d)**

1. I am a member of the Bar of this Court and a member of the firm of O'Rourke & Degen, PLLC, local counsel for Plaintiffs Dunkin' Donuts Franchised Restaurants LLC ("Dunkin' Donuts"), Baskin-Robbins Franchised Shops LLC ("Baskin-Robbins"), DD IP Holder LLC and BR IP Holder LLC.

2. I have been outside counsel for Dunkin' Donuts in New York State for more than 25 years and for Baskin-Robbins for more than 11 years, and am fully familiar with the facts and circumstances of this case and the operation of Dunkin' Donuts and Baskin-Robbins franchises.

3. This Certification is being submitted in support of Plaintiffs' motion for a preliminary injunction.

4. The statements made in Plaintiffs' Memorandum of Law and signed by me are hereby incorporated herein by reference and made part of this Certification.

**REASON FOR REQUEST FOR PROCEEDING BY ORDER TO SHOW CAUSE**

5. An employee of Dunkin' Donuts and Baskin-Robbins went to Defendants' places of business and observed numerous standards violations relating to health, sanitation and safety. He delivered Food Safety and Sanitation Inspection Forms (Exhibits 2-A, 2-D, 2-G) and notices to cure (Exhibits 2-B, 2-E, 2-H) to Defendants.

6. On April 2, 2007 and April 5, 2007 the Dunkin' Donuts/Baskin-Robbins employee returned to Defendants' places of business and observed that numerous standards violations still existed at the shops. Immediate relief is needed, because Defendants have refused to remove violations listed on the Food Safety & Sanitation Inspection Reports (Exhibits 2-A, 2-D, 2-G). Photographs taken of the Premises corroborate the statements of the Dunkin' Donuts/Baskin-Robbins employee that food and sanitation violations exist. (Exhibits 2-C, 2-F, 2-I).

7. Every day the health of consumers and the reputation of Dunkin' Donuts and Baskin-Robbins are at risk as a result of the refusal of Defendants to clean up their stores. The potential damage to the reputation of Dunkin' Donuts and Baskin-Robbins may be incapable of being repaired.

8. Unless this Court allows Plaintiffs to proceed by order to show cause, valuable time will have been lost and Defendants will be able to continue to operate Dunkin' Donuts and Baskin-Robbins shops that have numerous violations of health and safety standards, including evidence of pest (i.e. mouse droppings, dead roaches); equipment not properly cleaned including mold on equipment; paper liners exposed to various contamination; portion plates exposed to various contamination; food contact surfaces not protected from contamination and allergens;

food products not stored at proper temperature; food products not properly labeled; food products not properly dated; dirt and debris in ice; food products left exposed without a cover; sick employees preparing food for customers; equipment and utensils not being sanitized properly; and generally unclean and poorly maintained premises.

**CERTIFICATIONS SUBMITTED IN SUPPORT OF MOTION**

9. In support of this application Plaintiffs are submitting the Certifications of Jack Laudermilk and Todd Matlovsky (Exhibits 1 and 2).

**NO PREVIOUS APPLICATION**

10. No previous request has been made for the relief requested herein.

I certify under penalty of perjury that the foregoing is true and correct. Executed on this 11th day of May, 2007.

/s/ Ronald D. Degen  
**RONALD D. DEGEN (RD 7808)**